IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

C.W.P. No. 6252 of 2007

DATE OF DECISION: 17.8.2007

M/s S.D. Processors and others

…Petitioners

Versus

Haryana Financial Corporation and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE A.N. JINDAL

Present: Mr. Vikram Singh, Advocate,
for the petitioners.

M.M. KUMAR, J.

The prayer made by the petitioners in the instant petition filed under Article 226 of the Constitution is for quashing notices dated 14.7.2003, 8.1.2001 and 8.1.2001 (P-4 to P-6 respectively). The aforementioned notices have been issued for effecting recovery of arrears of loan amount under the Punjab Land Revenue Act, 1961 (for brevity, 'the Act') as arrears of land revenue. Apparently an application was made by the respondent Corporation under the Act.

It is appropriate to mention that the petitioners had obtained loan from the respondent Corporation in the year 1995 and the Corporation took over possession of the mortgaged property on 4.12.1997. After sale of the property, the total balance could not be satisfied by the sale proceeds and the arrears were outstanding. In that regard notices were issued, eventually leading to filing of an application by the respondent Corporation under the Act.

Mr. Vikram Singh, learned counsel for the petitioners has primarily banked upon Section 32G of the State Financial Corporations Act, 1951 and Article 137 of the Schedule appended to the Limitation Act, 1963 (for brevity, 'the Limitation Act'). He has argued that the recovery sought to be effected is hit by the bar created by the period of limitation as three years have expired. In support of his submission, learned counsel has placed reliance on a judgment of Hon'ble the Supreme Court in the case of **Maharashtra State Financial Corporation v. Ashok K. Agarwal, AIR 2006 SC 1584** and argued that the period of three years is to be counted from the date of taking over possession by the respondent Corporation on 4.12.1997.

Having heard learned counsel we are of the considered view that the recovery notices to effect the balance amount as arrears of land revenue are not hit by the bar created by Article 137 of the Limitation Act because action by the respondent Corporation was started on 4.12.1997 itself when it took over possession of the property. The respondent Corporation has been taking continuous steps and admittedly it sold the mortgaged property belonging to the

petitioners in 1997. Thereafter, the balance amount is sought to be recovered by issuance of notices on 8.1.2001, 8.1.2001 and 14.7.2003 (P-6, P-5 and P-4 respectively). Accordingly, we are of the considered view that the period of limitation would not expire nor it could be deemed to have commenced from 1997 as per the contention raised.

No other argument has been raised.

In view of above, the writ petition fails and the same is accordingly dismissed.

(M.M. KUMAR)
JUDGE

(A.N. JINDAL)
JUDGE

August 17, 2007
Pkapoor